

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1049 (PCB TR 04-01) Specialty License Plate Program  
**SPONSOR(S):** Committee on Transportation  
**TIED BILLS:** **IDEN./SIM. BILLS:**

---

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Highway Safety Subcommittee	10 Y, 0 N	Garner	Miller
2) Committee on Transportation	20 Y, 0 N	Garner	Miller
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

---

### SUMMARY ANALYSIS

PCB TR 04-01 revises Florida's specialty license plate program, and provides that before an applicant-organization may seek Legislative approval of a new specialty license plate, it:

- Must submit a more specific description of the proposed plate with a sample plate in its final form;
- Must pre-sell 15,000 of the proposed plates through the tax collectors offices; and
- Is no longer required to submit a \$60,000 application fee.

In addition, DHSMV is required to promulgate specifications for the design and readability of specialty license plates, and to study the feasibility of using a direct-to-customer distribution system and to report its findings to the Legislature.

The PCB also clarifies that program costs, including start up and development costs and those associated with review of audit and attestation compliance, may be recovered from annual use fees collected from specialty license plate sales. In addition, the PCB requires that \$1 of the license tax from all motor vehicle registration transactions be deposited into the Highway Safety Operating Trust Fund to support state law enforcement officer recruitment and retention salary programs. While approximately \$16 million per year will be deposited for these programs, available funding for transportation projects will be correspondingly reduced.

The PCB also revises specialty plate discontinuation provisions. Currently, a specialty license plate is discontinued if less than 8,000 plates, including annual renewals, are issued by the end of the fifth year of sales or during any subsequent 5-year period. The PCB requires DHSMV to issue a discontinuation warning if, two years after the enactment of a plate, the number of valid plates is fewer than 8,000. If the number remains below the 8,000-plate threshold 12 months after the date of the warning, the PCB requires DHSMV to discontinue issuance. Exemptions for collegiate specialty plates remain in effect.

Finally, the PCB requires all organizations receiving annual use fee proceeds, including state agencies and any organizations to which the Florida Single Audit Act applies, to submit a form to DHSMV identifying all revenue from the specialty license plate program and a categorical list of expenditures.

**The PCB is expected to have a substantial fiscal impact on state government. For more details see the FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT section of the analysis.**

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

**STORAGE NAME:** h1049.tr.doc  
**DATE:** February 17, 2004

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. DOES THE BILL:

- |                                      |                              |  |   |
|--------------------------------------|------------------------------|--|---|
| 1. Reduce government?                | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/>            |
| 2. Lower taxes?                      | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom?        | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 5. Empower families?                 | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |

For any principle that received a “no” above, please explain:

#### Reduce government?

The PCB requires the Department of Highway Safety and Motor Vehicles (DHSMV) to promulgate rules providing specifications for the design of specialty license plates. The PCB also requires increased oversight by DHSMV of expenditures by organizations receiving proceeds from the sale of specialty license plates. DHSMV is also required to study and report to the Legislature the possibility of utilizing new manufacturing and distribution processes for specialty license plates.

#### B. EFFECT OF PROPOSED CHANGES:

##### **Background**

Florida’s Department of Highway Safety and Motor Vehicles (DHSMV) administers the state’s specialty license plate program through its Division of Motor Vehicles. Through this program, an owner of a motor vehicle registered in Florida can satisfy tag and registration requirements by placing a specially-themed license plate on his or her motor vehicle instead of the regular Florida license plate. The vehicle owner qualifies for this privilege upon payment of an annual use fee in addition to the required license tax.

The vehicle owner need not meet any special qualifications as with other special types of Florida plates like the Disabled Veterans license plate, the Medal of Honor recipient’s license plate, or the Amateur Radio Operator’s license plate. Specialty license plates support a variety of causes and organizations ranging from state universities, to environmental causes such as manatee and panther preservation. Each specialty plate has a unique design that is relevant to the cause or organization it supports.

Specialty license plates are created by the Legislature, either on its own initiative, or at the request of an organization or group that wishes to sponsor the plate. An organization wishing to sponsor a license plate usually follows a statutory procedure contained in s. 320.08053, F.S. However, specialty plates are sometimes created by the Legislature on behalf of independent organizations without adherence to this qualification procedure.

To date, Florida law has authorized 88 specialty license plates, and another 10 have been approved pursuant to s. 320.08053, F.S., by DHSMV to seek Legislative enactment. Sales of specialty license plates have generated more than \$24 million in annual use fees for 2002, and more than \$22 million in annual use fees through November of 2003, to fund the various causes associated with the plates. Since the program’s inception, DHSMV has collected annual use fees for all specialty license plates totaling more than \$225 million.

The Florida Legislature created the first specialty license plates in 1986 – one memorializing the seven astronauts who died when the space shuttle Challenger exploded after lift-off, and one for each of the nine universities then in the State University System. The Legislature continued to approve new

specialty license plates at a fairly slow pace in the years that followed. Only six new plates emerged over the next seven years, though this pace of growth was perceived as rapid by some in the Legislature at the time, and it prompted the development of a House policy guiding specialty plate creation. However, with the addition of five new plates in 1994, the pace of new specialty plate introduction increased more dramatically despite the policy, and has continued to do so since.

The House policy developed in 1991 outlined five conditions to be met before the House would consider legislation authorizing plates that raise revenue for special purposes. Those conditions included requirements that:

- the requesting organization or agency collect 8,500 signatures from prospective buyers;
- the requesting organization or agency provide short and long term marketing plans; and
- the proposed bill provide for recovery of administrative costs, for de-authorization, and for proceeds to go to a state agency program.

Despite the hope among some legislators that House policy guidelines would slow the pace of new plate creation, 1994 saw the legislative authorization of five new specialty license plates. Furthermore, the House policy failed to address the initial fiscal impact felt by DHSMV in developing the specialty plates. Although the law provided for recovery of ongoing costs through plate sales, initial costs incurred developing and purchasing the first run of plates could not be recovered. The policy guidelines also failed to ensure that a sufficient number of willing purchasers existed.

The following year, the legislature enacted Chapter 95-282, L.O.F., which consolidated redundant statutory provisions, and enacted a pre-qualification process similar to that contained in the House policy. Despite the codification of the House policy into law, specialty license plates continued to proliferate at a rapid pace. From 1996 to 2002, the Legislature authorized 26 specialty plates, averaging more than four new plates per year.

As noted above, at the inception of the specialty license plate program, the Legislature provided for specialty license plates for state and independent colleges and universities. Under the original provisions, any newly created colleges or universities need only apply to DHSMV to obtain a specialty plate supporting the particular school. However, in 1997, the Legislature in an effort to slow the proliferation of specialty plates restricted the ability of colleges and universities to obtain a plate. The new law exempted from the pre-qualification requirements only those college or university plates already in process as of January 1, 1997. This measure effectively cut off more than a score of colleges and universities from obtaining a plate without meeting the statutory pre-qualification requirements.

However, in 2002, New College in Sarasota ended its affiliation with the University of South Florida and became a separate entity. To accommodate the new school, the Legislature moved the restriction date from January 1, 1997 to October 1, 2002, opening a window for more than 20 colleges and universities to obtain a new specialty plate. Twenty-three of those colleges and universities immediately started the pre-qualification process upon amendment of the law, resulting in the automatic creation of specialty plates for those schools. With this unintended surge in new collegiate plates, coupled with the addition of 11 others during the 2003 Regular Session, and the development of several others already authorized by the Legislature, Florida now offers 88 specialty plates. The increase in 2003 from 54 to 88 specialty license plates represents an unprecedented one-year increase.

The 1995 codification of specialty license plate policies included provisions requiring DHSMV to continue to produce plates for as long as revenues generated by plate sales exceeded department costs. In 1998, the Legislature amended the law to provide for discontinuation in the event less than 8,000 plates were issued in the first and subsequent 5-year sales periods. Both the old and new provisions required the discontinuation of plates in the event the related organization ceased to exist. However, despite concerns over the ever-growing number of specialty license plates, in 2001 the

Legislature passed a provision that included the number of annual renewals in the tally of plate sales. This provision was designed to help sports teams maintain sufficient sales to avoid discontinuation of their specialty plates without a specific exemption. With this provision in effect, DSHMV is not required to discontinue a plate unless the number issued *and* the number of subsequent renewals falls below 8,000 in a five-year period.

Under these statutory schemes, only three plates have been discontinued for lack of sales. In 2002, pursuant to law, DHSMV discontinued the Girl Scouts, Tampa Bay Storm, and Orlando Predators specialty plates for lack of sales and renewals. A number of other plates have been discontinued, but only because the plate was intended to be issued for a limited time only, or because the organization ceased to exist.

## **Current Situation**

### **Motor Vehicle Licensing and Specialty License Plate Fees**

A motor vehicle that is driven, parked, or stopped on any of Florida's highways, roads or streets must display a state-issued license plate signifying the licensing of the vehicle. In order to license a motor vehicle, the owner must pay the appropriate license tax for the type of vehicle. Certain motor vehicles, like motorcycles, mopeds, and other vehicles used for special purposes, are taxed at a flat rate depending on the vehicle type or use. Other motor vehicles like cars, trucks, RV's, and certain commercial vehicles are taxed based on vehicle weight, and in a few cases, the number of passengers. Motor vehicle licensing provisions are set forth in Chapter 320, F.S.

Automobiles, SUV's, and light trucks are all eligible to carry a specialty license plate, and are all taxed by weight. Car owners pay a license tax that ranges from \$14.50 to \$32.50, and passenger truck owners pay a license tax that ranges from \$14.50 to \$65.00. This license tax must be paid by the owner of every motor vehicle regardless of the type of plate attached to the vehicle. In addition to the license tax, a number of surcharges may apply, depending on the type of motor vehicle licensed, and depending on whether the customer uses a government or a private tag agency. In order to obtain a specialty license plate instead of the regular Florida license plate, the motor vehicle owner must pay an annual use fee in addition to the applicable license tax and surcharges. Once the implementation of a newly created specialty plate is paid for, all annual use fees are distributed to organizations or government agencies for the purposes supported by the plate, and specified by the Legislature. Annual use fees vary from one specialty plate to another, ranging from \$15.00 to \$25.00. The various specialty license plates and their annual use fee amounts are listed in ss. 320.08056 and 320.08058, F.S.

All organizations receiving annual use fee proceeds are responsible for ensuring that the proceeds are used in accordance with legislative direction, and some are subject to audit pursuant to the Florida Single Audit Act, which establishes a uniform process to audit non-state entities that receive state money to carry out state projects. Non-state entities (local governments and for-profit or not-for-profit corporations) that receive \$300,000 or more in state financial assistance must comply with the provisions of the Act. Non-state entities that receive less than \$300,000 in state financial assistance need only attest that they are using annual use fee proceeds according to statutory mandate. Some entities receiving annual use fee revenues are state entities, and are therefore audited by the state's Auditor General. Those organizations not subject to audit by the Auditor General or to the auditing provisions of the Florida Single Audit Act attest under penalty of perjury that they are using proceeds in accordance with Legislative direction.

### **Legislative Authorization Process**

As discussed above, the Legislature set up a statutory pre-qualification procedure for new specialty license plates in s. 320.08053, F.S. Usually, a sponsoring group or organization proposing a new

specialty license plate must meet statutory requirements before the Legislature will consider enacting the plate. The group or organization must submit:

- a request for the particular plate being sought describing it in general terms;
- an independent scientific sample survey of Florida motor vehicle owners conducted by a department-approved surveyor, indicating that at least 15,000 owners intend to purchase the proposed plate at the increased cost;
- an application fee of no more than \$60,000 in non-state funds to defray DHSMV's cost for reviewing the application and manufacturing the first run of plates; and
- a marketing strategy outlining the short and long-term marketing plans for the plate, and a financial analysis outlining the anticipated revenues and the planned expenditures of the plate revenues.

Once these requirements have been met, DHSMV notifies legislative staff, and the organization seeking the plate seeks legislative approval.

On occasion, the Legislature has departed from the statutory requirements and approved proposed specialty plates despite the fact that they have not satisfied the pre-approval requirements. During the 2001 Special Session B, in response to the events of September 11, 2001, the Legislature created the American Red Cross and the United We Stand specialty plates in this manner. Although the Florida Statutes require organizations to submit to the pre-approval process, it is a long-standing and recognized legal doctrine that no legislative action can tie the hands of future legislatures acting within their constitutional powers. Thomas v. Askew, 270 So.2d 707, 709 (Fla. 1972). Any Legislature may thus enact new specialty plates without requiring adherence to the pre-approval process.

Still other plates, as has been discussed above, have been created without meeting pre-approval criteria, and without subsequent legislative action, through a time-limited statutory exemption. This exemption applies to collegiate license plates, and it has been amended over the years to apply the exemption to more and more colleges and universities.

In an effort to manage the number of specialty plates and to eliminate those that are less popular, the Legislature has also provided for the discontinuation of plates selling fewer than 8,000, including renewals, in the first five years of sales, and in each five-year period thereafter. As discussed above, only three specialty plates have ever been discontinued for lack of sales and renewals. Although many college and university plates are not among the top sellers, these plates are exempt from the minimum sales requirements, and are not subject to discontinuation if sales and renewals fall below 8,000 in the first five years, or during subsequent five-year periods.

### **Design Approval and Production**

Once the Legislature authorizes a new specialty plate, DHSMV initiates new programming at their data center expanding and programming the necessary identifiers in their database to accommodate the new license plate. During programming, the requesting organization or entity submits the art design to DHSMV to be reviewed for compliance with State license plate specifications. Once the department completes this review, it delivers the art work to the House and Senate bill sponsors for their initial approval.

Once the art work is approved by the legislative sponsors, DHSMV delivers it to 3-M Corporation where sample plates are prepared and sent back. 3M Corporation is the vendor that supplies the retro-reflective laminate applied to Florida's license plates. After 3-M delivers sample plates to DHSMV, they are approved and submitted to PRIDE at Union Correctional Institution in Starke, Florida, for embossing and painting. When the samples are ready, DHSMV sends copies to the sponsoring organization and the primary bill sponsors for final approval. If anyone does not approve, the process starts over.

PRIDE is the nonprofit corporation that leases and manages the correctional work programs of the Department of Corrections (DOC). The corporation is not an agency and leases all of DOC's work programs exclusively.

Once the department, the organization and the bill sponsors give their approval, the plate design must next be approved by the Governor and Cabinet acting in its capacity as the head of DHSMV. After final approval, a copy of the plate is submitted to 3-M who manufactures the sheeting for delivery to PRIDE. PRIDE uses the sheeting to manufacture the specialty plates and delivers them directly to the county tag agencies.

PRIDE manufactures both standard and specialty license plates using an embossing process. This is the process by which the alpha-numeric field is raised in the metal substrate, and each plate receives its unique identifier. Processes utilizing embossing require separate steps for preparing the graphic background, pairing each plate with an alpha-numeric identifier, applying that identifier to the blank, and roll-coating the plates to paint the raised numbers and letters. In Florida, computer technology is used to manage this process by assigning a specific license plate number to a particular blank.

In some states, license plates are not embossed, but are made with a digital printing system that results in a flat plate. These digital methods can be used to quickly produce almost any conceivable graphic background. Digitally printed flat plates may be a simple monochromatic printing of the alpha-numeric identifier on a pre-printed or plain background, or they may have the entire background image and identification number pre-printed with a multicolor graphics printing system. The digital printing process may eliminate the need for different long-run, short-run, and screen printing systems for different plates, and it allows for the separate steps of graphic background design, and alpha-numeric identification and assignment to be combined.

DHSMV pays PRIDE \$1.38 for each standard plate, and \$2.46 for each specialty license plate. A plate authorized by the Legislature may not be ready for sale for up to six months after approval by the Cabinet. During the interim from enactment to sales, considerable agency staff time is spent in the development process. DHSMV estimates that its cost alone for programming and designing specialty plates is approximately \$22,560 per new specialty plate. It costs an additional \$36,900 to purchase the first order of 15,000 plates. These cost estimates form the basis for the \$60,000 application fee paid by organizations seeking a new specialty license plate.

### **Recurring Issues**

As it is currently run, Florida's specialty license plate program faces a number of issues, including those related to the rising number of specialty license plates and the adequacy of the process for manufacturing and distributing them. First, the rapid increase in the numbers of specialty license plates presents challenges to DHSMV and local tax collectors in maintaining appropriate inventory levels. Also, the inability of law enforcement to quickly identify vehicles and where they are from, owing to the variety of plates in Florida and other states, raises safety and security concerns. Auditing of organizations receiving revenue collected from plate sales also becomes increasingly problematic under current auditing requirements as the number of organizations to be audited rises. Second, it is unclear whether the license plate manufacturing processes in Florida would benefit from changes in production and distribution technologies, or whether it is in the state's best interest to update the manufacturing process, as PRIDE and DHSMV may have efficiency interests that are at odds.

### ***Issues Associated With Proliferation***

In Florida, local tax collectors collect motor vehicle license taxes and distribute registration license plates to vehicle owners. The state's constitution provides for an elected tax collector in each of the 67 counties, and each of these tax collectors, acting as DHSMV's agent, is tasked with the same duty of collecting license taxes for the motor vehicles registered within his or her county. In order to carry out

this task, and to provide acceptable customer service, each tax collector must make each kind of license plate available to the public. Until recently, all tax collectors were required by DHSMV to maintain at least some inventory of every kind of specialty license plate. Without any record of prior sales performance for newer specialty plates, tax collectors and DHSMV officials have difficulty in setting appropriate inventory levels to be maintained. In addition, with the creation of each new specialty license plate, each tax collector is confronted with the new burden of finding space for additional inventory, and of adjusting computer codes and other procedures to accommodate sales and renewals of the new plate. However, it is unclear exactly how pressing this inventory storage problem is for many agencies. According to DHSMV, depending on perceived demand, agencies have requested as few as 5 of a particular type of specialty plate, or as many as 400. While this differential can create difficulties for PRIDE, which packages plates at the agency level after receiving plate number assignments from DHSMV, the manufacturer maintains that it has solved these issues through a computerized inventory and packaging system that utilizes in-house programming.

In addition, as the number of specialty plates grows and new and more varied designs are developed, ready identification of a plate's jurisdiction of origin becomes more difficult, particularly for law enforcement personnel. This difficulty is pronounced by the fact that every state has at least some special license plate designs, and much like Florida, many of those states have programs that develop plates with substantially different graphic designs from the standard plate design. It is difficult for a Florida law enforcement officer to recognize all of the different license plates issued in this state, but it is practically impossible for that officer to recognize by jurisdiction all of the different plates issued throughout the United States. This recognition problem is exacerbated by the widespread use of license tag brackets or frames that can cover identifying information on license plates. These brackets typically cover all or a portion of the state name appearing at the top-center or bottom-center of the license plate. A law enforcement officer's inability to identify the state of origin for a vehicle increases the difficulty of obtaining vital information without stopping the driver to get it. Members of law enforcement raise this concern for safety reasons, as increased numbers of roadside stops increase the exposure of officers to potentially dangerous situations. As plates proliferate, and graphic designs become more varied and diverse, design and color schemes can make readability an additional concern for law enforcement. Some states, including Pennsylvania, Virginia, and Arizona have already had designs recalled for this reason.

Existing auditing issues may also be exacerbated by the continuing proliferation of specialty license plates. As discussed above, organizations receiving annual use fee proceeds are responsible for ensuring that the proceeds are used in accordance with legislative direction, and some are subject to audit pursuant to the Florida Single Audit Act, which establishes a uniform process to audit non-state entities that receive state money to carry out state projects. Non-state entities (local governments and for-profit or not-for-profit corporations) that receive \$300,000 or more in state financial assistance must comply with the provisions of the Act. Non-state entities that receive less than \$300,000 in state financial assistance need only attest that they are using annual use fee proceeds according to statutory mandate. Some entities receiving annual use fee revenues are state entities, and are therefore audited by the state's Auditor General.

Those organizations not subject to audit by the Auditor General or to the auditing provisions of the Florida Single Audit Act attest under penalty of perjury that they are using proceeds in accordance with Legislative direction. The attestation form collected by DHSMV (RS-39) requires a detailed declaration of revenues and a categorical list of expenditures with a notation as to whether the expenditure complies with Florida Statutes. In many, if not all cases, attestations are more detailed expressions of an organization's financial activity than a CPA-conducted audit under the Florida Single Audit Act. This lack of detail in Single Audit Act audits is due to the fact that the Act does not require a specific breakout of specialty plate expenditures, as does the DHSMV attestation form. The result is that organizations receiving more state financial assistance are required to submit to less, rather than more, stringent audits.

For example, while attestation forms indicate a detailed list of expenditures on a variety of youth-related athletic programs and other expenses associated with the Police Athletic League specialty plate, and Auditor General audits indicate how much Florida State University specialty plate money is dedicated to scholarships and fundraising, Single Audit Act audits for the Challenger/Columbia specialty plate do not break out specialty license plate expenditures.

Although the multiple audit requirements for various organizations receiving specialty license plate annual use fees are not caused by the proliferation of specialty license plates, the problems that arise from this diversity of accounting procedures is exacerbated by increasing numbers of specialty plates which must be audited in one form or another.

### ***Issues Associated with Manufacturing and Distribution***

License plate creation, from beginning to end, can be long and costly, but it is unclear whether the utilization of different technologies might lower costs. Some states that have gone to a digitally printed flat plate manufacturing process have seen their per-plate costs increase dramatically. Indiana is one such state. According to PRIDE Industry Manager, Bob Triner, changing to a flat plate process has increased that state's costs by about 46 percent. Without knowing the specific requirements of the law in Indiana, it is impossible to know exactly what drove costs so high. In Florida, however, the utilization of tax collectors as agents to sell specialty license plates and the high capital cost of converting to the new process are two areas that have made technology changes cost-prohibitive. According to Triner, a recent 3M proposal for transitioning to a digitally produced flat plate process would have resulted in an increase cost of at least 30 percent, or about \$.80 per plate. Under the proposal, lease of the new machinery alone would have cost at least \$1 million per year. In addition, an upgrade to the high-tech equipment would probably require improvements to the manufacturing location, or relocation.

Some states using the new technology, like New York, can justify the capital costs because of savings derived from a direct-to-customer shipping system that the digital process is well suited to accommodate. In Florida, DHSMV requires each tax collector to maintain an appropriate inventory, so PRIDE must package license plates at the agency level, and separately stock 67 counties, most with multiple offices. PRIDE, in cooperation with DHSMV and tax collectors, has developed a number of ways to cut costs within the existing manufacturing process by creating its own software applications to manage and control manufacturing, packaging, and distribution. In addition, PRIDE has an arrangement with 3M Corporation for buying retro-reflective sheeting on consignment.

Because of the array of variables that determine manufacturing costs, identifying more efficient, but cost saving alternatives is difficult. Different technology and systems options in areas that range from production scheduling, to materials selection, to graphics printing technology options, to different blanking machinery and processes, to different embossing machines and techniques, to the various finishing processes, and how all of these tie into unique packaging, distribution and inventory requirements, make specific recommendations for use of a particular technology or method very difficult.

Even if a more efficient manufacturing method became obvious, it might not be an advisable alternative. The Florida Department of Corrections and DHSMV have different interests in the license plate manufacturing process. The Legislature's purpose in providing for the work programs managed by PRIDE is clear. Florida Statutes state:

- (2) It is ... the finding of the Legislature that the mission of a correctional work program is, in order of priority:
  - (a) To provide a joint effort between the department (Department of Corrections), the correctional work programs, and other vocational training programs to reinforce relevant education, training, and postrelease job placement and help reduce recommitment.
  - (b) To serve the security goals of the state through the reduction of idleness of inmates and the provision of an incentive for good behavior in prison.

(c) To reduce the cost of state government by operating enterprises primarily with inmate labor, which enterprises do not seek to unreasonably compete with private enterprise.

(d) To serve the rehabilitative goals of the state by duplicating, as nearly as possible, the operating activities of a free-enterprise type of profitmaking enterprise.

Section 946.501(2), F.S. The passage indicates that the Legislature has found that the state's interest in obtaining security goals through the reduction of inmate idleness is a higher priority than reducing the costs of state government. Section 946.502(6), F.S., also plainly states that the Legislature's intent in providing for managed or leased work programs specifically emphasizes reducing idleness. Thus, any gains in efficiency at PRIDE beneficial to the license plate program administered by DHSMV could be viewed as contrary to the interests of the corrections system.

### **Effect of Proposed Changes**

PCB TR 04-01 substantially amends the existing specialty license plate program.

Under the current program organizations seeking a new specialty license plate are required to submit with their application a general description of the proposed specialty license plate. The PCB requires an organization making an application to submit a description in specific terms, accompanied by a sample plate as it will appear in final form. Such a change requires organizations to engage in a greater level of planning prior to submission of an application for a new specialty plate, and enables the organization to display a product when attempting to meet new pre-sales requirements that are also provided in the PCB.

Current law requires that an applicant-organization submit the results of an independent scientific survey which indicates that 15,000 Florida vehicle owners will purchase the proposed specialty license plate. Experience demonstrates that these surveys rarely accurately reflect the actual market demand for the proposed plate. As a result, tax collectors and the department face difficulties in estimating demand and planning inventories for newly created specialty license plates. The PCB eliminates the need for scientific surveys and requires organizations to pre-sell 15,000 of the proposed specialty license plate within one year of application before DHSMV will authorize the organization to seek Legislative approval of the plate. Under the PCB, pre-sales transactions occur at local tax collectors offices. Should the organization fail to meet the 15,000 sale threshold within one year, the tax collectors office will apply the pre-sales amounts toward the customer's next vehicle registration transaction. If the customer does not conduct a vehicle registration transaction within one year of his or her prior registration, DHSMV will refund the pre-sales amounts.

Current law also requires an applicant-organization to submit a \$60,000 application fee that is applied to DHSMV's cost of developing and purchasing the initial supply of new license plates. The PCB eliminates this requirement, and authorizes DHSMV to retain these costs from initial pre-sales amounts. DHSMV is also authorized by current law to retain sufficient proceeds from annual use fees collected to defray the costs of the specialty license plate program. The PCB clarifies the law to ensure that DHSMV is also authorized to use these proceeds to cover its costs of overseeing compliance with audit and attestation requirements by organizations receiving specialty plate proceeds.

In addition, the PCB requires that \$1 of the license tax from every license registration transaction be deposited into the Highway Safety Operating Trust Fund to be used to support state law enforcement officer recruitment and retention salary programs. This additional funding for state law enforcement will result in a corresponding reduction in funding to the Department of Transportation for transportation project funding. The amount of specialty license plate annual use fee proceeds distributed to organizations is not affected because the \$1 is a portion of the license tax that is paid with every registration, and is not part of the annual use fee that specialty license plate purchasers must also pay in addition to the license tax. One dollar is redistributed from every registration transaction excluding

those for mobile homes and under the Interstate Registration Plan, not only those involving specialty license plates.

Those representing the law enforcement community have raised the concern that rising numbers of specialty license plates make it increasingly more difficult to recognize the state of origin of some vehicles. The PCB addresses this concern by requiring DHSMV to adopt design specifications for specialty license plates that promote readability and discourage counterfeiting. The rules must provide uniform specifications requiring common placement of the word "Florida" on specialty plates, and requiring the word to be clearly identifiable when the plate is mounted on a vehicle. The rules must also provide specifications for the size and location of any words or logos appearing on the plates.

Currently, Florida law provides for the discontinuation of specialty license plates if less than 8,000 plates, including annual renewals, are issued by the end of the fifth year of sales or during any subsequent 5-year period. The PCB requires DHSMV to issue a discontinuation warning if, two years after the enactment of a plate, the number of valid plates is fewer than 8,000. If the number remains below the 8,000-plate threshold 12 months after the date of the discontinuation warning, the PCB requires DHSMV to discontinue issuance of the specialty plate. Under current law, collegiate specialty license plates are exempt from discontinuation standards. This exemption remains effective under the PCB.

Organizations receiving annual use fee proceeds are currently responsible for ensuring that the proceeds are used in accordance with legislative direction, and some are subject to audit pursuant to the Florida Single Audit Act, which establishes a uniform process to audit non-state entities that receive state money to carry out state projects. Non-state entities (local governments and for-profit or not-for-profit corporations) that receive \$300,000 or more in state financial assistance must comply with the provisions of the Act. Non-state entities that receive less than \$300,000 in state financial assistance need only attest that they are using annual use fee proceeds according to statutory mandate. Some entities receiving annual use fee revenues are state entities, and are therefore audited by the state's Auditor General.

Those organizations not subject to audit by the Auditor General or to the auditing provisions of the Florida Single Audit Act attest under penalty of perjury that they are using proceeds in accordance with Legislative direction. The attestation form collected by DHSMV (RS-39) requires a detailed declaration of revenues and a categorical list of expenditures with a notation as to whether the expenditure complies with Florida Statutes. In many, if not all cases, attestations are more detailed expressions of an organization's financial activity than a CPA-conducted audit under the Florida Single Audit Act. This lack of detail in Single Audit Act audits is due to the fact that the Act does not require a specific breakout of specialty plate expenditures, as does the DHSMV attestation form. The result is that organizations receiving more state financial assistance are required to submit to less, rather than more, stringent audits.

The PCB requires all organizations, including state agencies and those organizations subject to Single Audit Act audits, to submit an attestation form approved by DHSMV that identifies all revenue received by the organization from the specialty license plate program and a categorical list of expenditures. This requirement is in addition to all requirements existing under current law.

Finally, the PCB requires DHSMV, in cooperation with PRIDE and local tax collectors, to study the feasibility of using direct-to-customer distribution of license plates, and to report the findings to the Legislature no later than December 31, 2004.

#### C. SECTION DIRECTORY:

**Section 1.** Amends s. 320.08053, F.S., requiring submission of a specific description of a proposed specialty license plate, a sample plate, and the pre-sale of 15,000 proposed plates before an organization may seek Legislative enactment of a specialty plate; authorizing DHSMV to retain up

\$60,000 of pre-sales amounts to defray initial costs; providing the method of pre-sales; deleting the requirements that an organization submit a scientific sample survey and a \$60,000 application fee; and requiring DHSMV to develop design specifications for specialty license plates.

**Section 2.** Amends s. 320.08056, F.S., requiring specialty license plates to conform to DHSMV's design specifications; authorizing DHSMV to retain annual use fees sufficient to cover audit and attestation compliance review costs; and providing a new standard for discontinuation of specialty license plates that fail to sell in sufficient numbers.

**Section 3.** Amends s. 320.08062, F.S., requiring all organizations and state agencies receiving annual use fee proceeds to submit an attestation form approved by DHSMV.

**Section 4.** Amends s. 320.20, F.S., providing that \$1 of each license tax registration, or renewal of registration, shall be deposited into the Highway Safety Operating Trust Fund to support state law enforcement officer recruitment and retention salary programs.

**Section 5.** Provides for a study by DHSMV, in cooperation with representatives of tax collectors and PRIDE at Union Correctional Facility, to determine the operational and economic feasibility of utilizing a direct-to-customer method of distribution for specialty license plates, and requires DHSMV to report findings to the Legislature.

**Section 6.** Provides that the PCB shall take effect upon becoming law.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

See FISCAL COMMENTS section below.

#### 2. Expenditures:

See FISCAL COMMENTS section below.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

None.

#### 2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

### D. FISCAL COMMENTS:

The Florida Department of Transportation (FDOT) estimates that the distribution of \$1 from every license registration and registration renewal transaction to the Highway Safety Operating Trust Fund instead of the State Transportation Trust Fund (STTF) will have a total negative ten year impact to the STTF of \$227.2 million. The STTF will lose \$185.2 million from diverted license plate revenues and \$42 million in interest. The near-term impacts to the STTF are expected to be \$16.5 million in FY 2004, \$17.7 million in FY 2005, and \$19.1 million in FY 2006. The FDOT estimates assume a 3 percent

annual increase in the amount of revenues diverted from the STTF. Correspondingly, the diversion of the \$1 into the Highway Safety Operating Trust Fund (HSOTF) will have a positive fiscal impact on that trust fund, and will benefit state law enforcement officer recruitment and retention salary programs. The positive impact to the HSOTF is expected to be \$16.2 million in FY 2004, \$16.6 million in FY 2005, and \$17.1 million in FY 2006.

In the past, though authorized by s. 320.08056 (7), F.S., to do so, DHSMV has not recovered the full costs of administering the specialty license plate program from annual use fee proceeds. Through a recent internal audit (DHSMV Internal Audit Report No, 2002/03-9), DHSMV discovered that it was only recovering the difference between the cost of purchasing standard license plates and the cost of purchasing specialty license plates, and it was only recovering those costs from select counties. DHSMV has reported that it will now recover all costs of administering the program, as allowed by current law. The PCB also clarifies that DHSMV may also use these withheld amounts to offset the costs associated with reviewing compliance with auditing and attestation requirements placed on organizations and agencies that receive annual use fees.

These comments are provided by DHSMV:

This legislation may have a workload impact, which will be absorbed within existing resources, for refunding prepaid use fees paid by motorists or other applicants for specialty license plates which are not approved. This legislation would also require minimal programming modifications to the Motor Vehicles License Software Systems which would be absorbed within existing resources.

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

##### 1. Applicability of Municipality/County Mandates Provision:

Not applicable because the bill does not appear to: require counties or cities to spend funds or take action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

##### 2. Other:

None.

#### B. RULE-MAKING AUTHORITY:

The PCB requires DHSMV to promulgate rules providing specifications for the design of specialty license plates that promote and enhance the readability of all specialty license plates, and that discourage counterfeiting. The rules must provide uniform specifications regarding the size and placement of the word "Florida" on specialty license plates so that the word is clearly identifiable when a plate is mounted on a vehicle. The rules must also provide specifications for the size and locations of any words or logos appearing on a specialty license plate.

#### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

#### **IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

On January 21, 2004, the Highway Safety Subcommittee (Trans) recommended one amendment to PCB TR 04-01. The amendment deleted a provision requiring DHSMV to retain 10 percent of annual use fee proceeds collected from the sale of specialty license plates created after October 1, 2004, and to be used for the support of the department's FHP Recruitment and Retention Salary Program, and inserted a provision requiring that \$1 of the license tax collected in each motor vehicle registration and registration renewal transaction be deposited into the Highway Safety Operating Trust Fund to support state law enforcement recruitment and retention salary programs. The Subcommittee then reported the PCB favorably as amended by a vote of 10-0.